

Senate Bill 533

By: Senators Bulloch of the 11th, Smith of the 52nd and Hamrick of the 30th

AS PASSED

AN ACT

To amend Chapter 32 of Title 31 of the Official Code of Georgia Annotated, relating to living wills, so as to revise the statutory living will form; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 32 of Title 31 of the Official Code of Georgia Annotated, relating to living wills, is amended by striking subsection (b) of Code Section 31-32-3, relating to execution of living wills, witnesses, and forms; and inserting in its place the following:

"(b) The declaration shall be a document, separate and self-contained. Any declaration which constitutes an expression of the declarant's intent shall be honored, regardless of the form used or when executed. Declarations executed on or after March 28, 1986, shall be valid indefinitely unless revoked. A declaration similar to the following form or in substantially the form specified under prior law shall be presumed on its face to be valid and effective:

'LIVING WILL

Living will made this _____ day of _____ (month, year).

I, _____, being of sound mind, willfully and voluntarily make known my desire that my life shall not be prolonged under the circumstances set forth below and do declare:

1. If at any time I should (my initials indicate each option desired):

(A) Have a terminal condition as defined in paragraph (13) of Code Section 31-32-3
 _____(Initial)

(B) Become in a coma, as defined in paragraph (2) of Code Section 31-32-3, with no reasonable expectation of regaining consciousness

_____ (Initial)

or

(C) Become in a persistent vegetative state, as defined in paragraph (9) of Code Section 31-32-3, with no reasonable expectation of regaining significant cognitive function,

_____ (Initial)

I direct the application of the following life-sustaining procedures to my body and that I be permitted to die (my initials indicate the option desired):

(A) I will receive no nourishment or fluids

_____ (Initial)

(B) I will receive fluids, but not nourishment

_____ (Initial)

(C) I will receive nourishment, but not fluids

_____ (Initial)

or

(D) I will receive nourishment and fluids

_____ (Initial)

;

2. In the absence of my ability to give directions regarding the use of such life-sustaining procedures, it is my intention that this living will shall be honored by my family and physician(s) as the final expression of my legal right to refuse medical or surgical treatment and accept the consequences from such refusal;

3. I understand that I may revoke this living will at any time;

4. I understand the full import of this living will, and I am at least 18 years of age and am emotionally and mentally competent to make this living will; and

5. If I am a female and I have been diagnosed as pregnant, this living will shall have no force and effect unless the fetus is not viable and I indicate by initialing after this sentence that I want this living will to be carried out.

_____ (Initial)

Signed _____

_____ (City), _____ (County), and _____ (State of Residence).

I hereby witness this living will and attest that:

- (1) The declarant is personally known to me and I believe the declarant to be at least 18 years of age and of sound mind;
- (2) I am at least 18 years of age;
- (3) To the best of my knowledge, at the time of the execution of this living will, I:
- (A) Am not related to the declarant by blood or marriage;
 - (B) Would not be entitled to any portion of the declarant's estate by any will or by operation of law under the rules of descent and distribution of this state;
 - (C) Am not the attending physician of declarant or an employee of the attending physician or an employee of the hospital or skilled nursing facility in which declarant is a patient;
 - (D) Am not directly financially responsible for the declarant's medical care; and
 - (E) Have no present claim against any portion of the estate of the declarant;
- (4) Declarant has signed this document in my presence as above instructed, on the date above first shown.

Witness _____

Address _____

Witness _____

Address _____

Additional witness required when living will is signed in a hospital or skilled nursing facility.

I hereby witness this living will and attest that I believe the declarant to be of sound mind and to have made this living will willingly and voluntarily.

Witness: _____

Medical director of skilled
nursing facility or staff
physician not participating
in care of the patient or
chief of the hospital
medical staff or staff
physician or hospital
designee not participating
in care of the patient."

SECTION 2.

This Act shall become effective on July 1, 2006. Any declaration which is in essence a living will, using the form specified in Code Section 31-32-3 as amended by this Act or a form specified under prior provisions of such Code section, shall continue to be valid and effective on and after July 1, 2006.

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.